IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORIGINAL SIDE CIVIL JURISDICTION

CHAMBER SUMMONS NO.1519 OF 2004
IN
SUIT NO.1110 OF 1996

Mr. Shyam B. Lutharia and ors. ...Plaintiffs.
Vs.
Udharam B. Lutharia and ors. ...Defendants.
And
I.T.C. Ltd. ...Respondent.

Mr. Almeida A.J. for the Plaintiffs.
Mr. D.A. Athavale for the Defendants.
Mr. S.V. Doijode for the Respondent.

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CORAM : S.U. KAMDAR,J.
DATED : 27TH APRIL,2005.

P.C.:

1. The present chamber summons is taken out to add the respondent as party defendant in the suit. The learned counsel appearing for the plaintiffs states that they are seeking no reliefs against the added respondent No.5. However, the learned counsel appearing for the defendants contends that he is not necessary or proper party. In my opinion, the said issue can be decided in the suit. If the respondent is added as improper party, the suit of the plaintiff will suffer by mis joinder of the parties and can be dismissed. The defendant cannot contend that he should not be joined as party when the

plaintiff think him as necessary party. Amendment to be carried out within two weeks from today. Chamber summons is disposed of accordingly.

(S.U. KAMDAR, J.)